

DRAFT

NATIONAL CONFERENCE ON PUBLIC TRUST AND CONFIDENCE IN THE JUSTICE SYSTEM

NATIONAL ACTION PLAN

Introduction

On May 13-15, 1999 in Washington D.C., state chief justices, court managers, and representatives of the federal judiciary, bar, the media and the public attended The National Conference on Public Trust and Confidence in the Justice System (hereafter PT&C Conference). The 500 attendees met to identify the issues affecting public trust in the justice system and to enhance and support state court strategies addressing these issues. The conference was held under the auspices of the Conference of Chief Justices, the American Bar Association, the Conference of State Court Administrators, and the League of Women Voters. The conference was funded by the Bureau of Justice Assistance, United States Department of Justice, the State Justice Institute, and the American Bar Association.

The conference was planned by a committee that included representatives from a broad array of national organizations that have an interest in the public trust issue. (See Attachment A: Planning Committee). The conference program was directed at facilitating strategic planning at the state and local level and supporting these strategies with the resources available to national organizations. The national support component of these state court improvement strategies was referred to by the PT&C Conference as the National Action Plan (hereafter NAP). Although the state strategic plans are the indirect and most important byproducts of the PT&C Conference, the NAP is the principal written product of the conference.

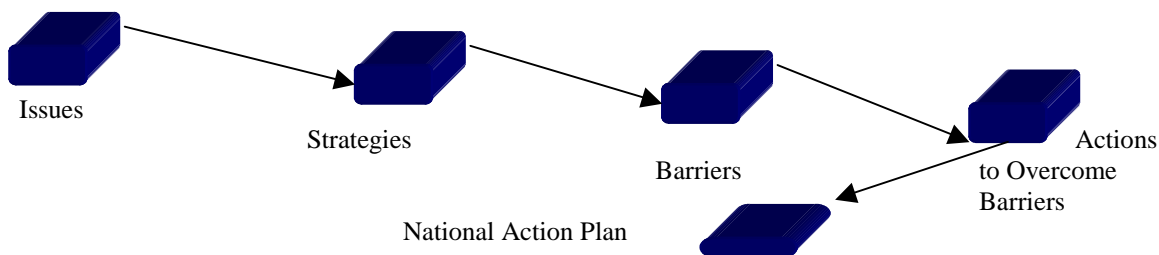
The NAP is a unique product in the sense that it is not a formal plan with a hierarchy of goals, objectives, programs, and implementation steps specific to one organization. It is instead a guide for national organizations that want to relate their strategic plans and programs to state strategies for building public trust and confidence in the courts. The planning committee for the PT&C Conference is the transitional entity charged with the responsibility for developing this plan. The NAP was prepared under the supervision of the NAP subcommittee of the conference planning committee with staff support from the National Center for State Courts. (See Attachment A, identifying the NAP subcommittee members). The NAP was approved by the steering committee of the conference planning committee. (See Attachment A, identifying the conference steering committee members).

The NAP will serve as a national point of reference for the many national organizations that are committed to supporting the implementation of state strategic plans. Representatives of these national organizations met with the NAP subcommittee

of the conference planning committee immediately after the close of the conference. (See Attachment B: National Organization Representatives Attending Post-Conference Meeting). This meeting served the purpose of establishing the initial connection between the NAP and the organizational agendas to support public trust initiatives. The NAP focuses on those issues, strategies and actions that appear to be highest priority in most states, but, as was observed at the meeting, national organizations may choose to lend support in some program areas that were not given high priority status by conference participants.

Inasmuch as the NAP is a product of the decisions of the PT&C Conference and ideas that it generated, it follows that the NAP should include the conference proceedings that led up to the national action component. The conference agenda followed a logical, sequential pattern that took the participants through a four-step process of major issue identification, prioritization of strategies, identification of possible barriers to these strategies, and identification of action steps to overcome possible barriers and effectuate the identified strategies. In the final plenary session, the participants considered a variety of supporting roles that national organizations could play and then ranked these roles by their importance for inclusion in the NAP.

CONFERENCE SEQUENCE



The conference followed a winnowing process. It received a very broad initial input: issues and strategies submitted by states in advance, ABA symposia reports, and national public opinion surveys. The conference, by a process of electronic voting, narrowed the issues and strategies and determined national priority issues affecting public trust and the major strategies and actions to deal with these issues. Particular emphasis was placed on supportive national actions relevant to these priorities. This distillation provides the basis for the NAP.

The organization of the NAP reflects to a large degree the structure of the conference itself but focuses on the national component and adds a post-conference implementation dimension. The NAP has two parts:

NATIONAL ACTION PLAN

Part I The PT&C Conference Sets a National Agenda

Conference Participants Hear Public Concerns About the Courts and the Legal System

Conference Participants Identify Key Issues Affecting Public Trust and Confidence

Conference Participants Identify Effective Strategies to Address the Key Issues

Conference Participants Identify Barriers to Effectuating Strategies to Build Public Trust and Confidence

Conference Participants Identify National Roles and Actions in Overcoming Barriers

The National Agenda

A Call to Action

Part II Implementation Plan

Introduction

Establish Implementation Infrastructure

Create Electronic Information Network

Develop Information Base of Activities to Build Public Trust and Confidence

Develop Resource Plan

PART I National Action Plan: The Conference Sets a National Agenda

Public Concerns about the Courts and the Legal System

There is strong empirical evidence that the American public is very critical of some aspects of the justice system and that these perceptions have eroded confidence in courts. These negative perceptions have been known for years, but the decision of court and bar leaders to squarely address the problem of public trust is a very recent one. The PT&C Conference is the fruit of this leadership decision. Quoting the first chief justice of the United States, John Jay, keynote speaker Chief Justice William H. Rehnquist captured the theme of the Conference: “Next to doing right, the great object in the administration of justice should be to give public satisfaction.” His thoughts were seconded in the concluding address of Associate Supreme Court Justice Sandra Day O’Connor:

Sometimes, in the pressure of doing what judges have to do and running a tight ship in the courtroom and deciding tough issues, we might forget that, in the last analysis, it is, after all, the public we serve and that we do care how the courts are perceived generally.

Chief Justice Rehnquist also touched on judicial independence and its nexus with public trust: “So the search for greater public trust must be pursued consistently with the idea of judicial independence.” The concept of judicial independence was developed in a conference video summarizing the results of two symposia sponsored by the American Bar Association as a prelude to the Conference. Luncheon speaker Mario Cuomo, former governor of New York, stressed the need to convey the importance of judicial independence to the public:

“We must tell them that while the politicians reveal what is popular, our judges protect the constitutional rights of all our people, even the despised.... There would never have been an American dream if the majority had its way every time it spoke.

We must tell them to keep that dream. Judges must remain independent of the politicians, even independent of the ones who appoint them and confirm their appointment.”

Although the mission of the judiciary is not court popularity, the conference planners recognized that there are some very real public concerns. Fittingly, the conference planner sought a current assessment of these concerns. In early 1999, 1,826 Americans were asked to express their opinion about the courts in their community. This survey “How the Public Views State Courts” was conducted by the National Center for State Courts

and funded by The Hearst Corporation.¹ In explaining to the conference why his corporation funded this survey, Frank A. Bennack, President and Chief Executive Officer, The Hearst Corporation, stated:

“If Alexander Hamilton was right when he said the chief duty of society is justice, the judicial system is the bedrock of our ability to meet that responsibility.

Think about it – it would be nice if everybody had complete trust in the media. Those of us in the media earnestly want that trust but it’s doubtful that we’ll ever have it. . . .

And what about complete trust in politicians? Not likely. We learned a long time ago that those tracks all over our trust in institutions have been left by feet of clay.

But the courts- that’s something different. Here trust is essential. Here, knowledge is essential. Here, society and institution come together in ways that really define who we would like to think we are as a society – fair, open, and protective of the rights of every individual.”

The survey revealed that 23 % of the respondents have a “great deal” of trust in the courts of their community and an additional 52% have “some trust,” placing courts in the middle range of trust in American institutions. This fairly lukewarm endorsement was reflected in survey responses on a number of issues. Only 10% of the respondents felt that the courts in their community handled cases in an “excellent” manner. Respondents were particularly critical of how courts handled family and juvenile cases.

In addition to public trust and confidence, the *Trial Court Performance Standards* identify four major areas of court responsibility: (1) access to justice; (2) expedition and timeliness; (3) equality, fairness, and integrity; and (4) independence and accountability. The survey revealed some public dissatisfaction in each of these areas. The level of dissatisfaction among African-Americans was higher in practically every category of the survey but most pronouncedly on issues of equality and fairness.

Access to Justice

Only 32% agreed that “it is affordable to bring a case to court.” Respondents overwhelmingly identified legal fees as the cause.

But 74% agreed that “courts make reasonable efforts to ensure that individuals have adequate attorney representation.”

58% agreed with the statement that “it would be possible for me to represent myself in court if I wanted to.”

¹ This survey included an oversampling of African-Americans and Hispanics (300 in each group) to provide more accurate insights than would have been provided by the basic random sample of 1200 adults. To avoid skewing, the final sample was weighted according to the population statistics for African-Americans (12.1%) and Hispanics (13.4%) and Whites/ non-Hispanics (72.1%) to ensure that each group was represented in the same proportion as in American society.

74% agreed that “court personnel are helpful and courteous.”

Timeliness

52% agreed that “courts adequately monitor the progress of cases.”

61% agreed that “judges do not give adequate time to each individual case.”

80% agreed with the statement “cases are not resolved in a timely manner.”

Equality and Fairness

On the favorable side:

85% agreed that “courts protect defendants’ constitutional rights.”

79% agreed that “judges are generally honest and fair in deciding cases” but answers to other questions seem to undercut this affirmation.

On the unfavorable side:

40% did not agree that “court rulings are understood by the people involved in the cases.” This level of lack of understanding among parties to a case appears very high.

56% agreed that “juries are not representative of the community.”

59 % agreed that “courts do not make sure that their orders are enforced.”

66 % agreed that “when a person sues a corporation, the courts generally favor the corporation over the person.”

80% agreed that the wealthy are treated better than other groups.

68% of African-Americans felt that they were treated worse by courts than other groups and almost 45% of the respondents in other groups agreed with this perception. Yet, 68% of African-Americans agreed that “judges are generally honest and fair in deciding cases.” This apparent discrepancy suggests that the concerns of African-Americans about fairness were directed more at the system than at judges, who still retain some credibility.

A majority of respondents felt that non-English speaking people receive worse treatment from courts.

Court Independence and Responsiveness

44 % agreed that “courts are ‘out-of-touch’ with what’s going on in their communities;” a majority of both African-American and Hispanic respondents felt that courts were out of touch.

A vast majority of respondents (81%) agreed with the statement that “judges’ decisions are influenced by political considerations.”

78% agreed that “elected judges are influenced by having to raise campaign funds.”

Commenting on the survey, a panel agreed with and supplemented the major survey findings.

“We have become a nation of process: whoever has the legal clout and the power wins. It is not a misperception on the part of the public.”

Catherine Crier (Moderator), Fox News’ Crier Report

“There is this notion {referring to the United States Supreme Court} that if the court can appear as a rarely heard voice from the clouds, that aura and mystique will engender respect for the proceedings. I have always felt that it is not right.”

Tony Mauro, Supreme Court Correspondent, USA Today

“. . . most blacks that I know are law and order abiding and do believe in laws and regulations. They want them to work. But our experience has shown all too often they have not worked fairly.”

Lawrence Dark, President and CEO, Urban League of Portland

“When we look at what people really care about, that is, what drives their confidence . . . we find that the key factors are issues of process, what people experience in the manner in which their cases are resolved.

. . .the degree to which they believe the legal authorities are trustworthy . . .

. . . when they feel they can participate. . .

. . . receiving polite and dignified treatment. . .

. . .neutral and unbiased treatment from authorities. . .”

Tom Tyler, Professor of Psychology, New York University

“They {the public} can accommodate conflicting opinions about the justice system in a way that lawyers and courts may not do.

. . . unless judicial leaders take the initiative and explain the work of the courts and try to explain some of the most obvious misconceptions, then I think the public will live with these paradoxical views.”

Stephen J. Parker, Professor and Dean, Faculty of Law, Monash University, Victoria, Australia

The issues of public concern were highlighted by the survey results and by the general confirmation they received from panelists, but this was not the first consideration of public trust issues by conference participants. Prior to the conference, an issues subcommittee of the conference planning committee reviewed materials reflecting the public trust issues that had been identified in various states through opinion surveys and constructed a preliminary list of issues. Each state received a list of public trust issues that appeared to be common to most states and went through a process of ascertaining and prioritizing the public trust issues in its jurisdiction, sometimes adding issues that were not on the list. The issues that emerged as pre-conference priorities of responding states closely paralleled those that emerged from the national survey: access to justice, timeliness in the disposition of cases, actual or perceived bias in the justice system, and need for public education. Among conference participants there was a rough initial consensus on the issues affecting public trust, if not their solution.

Conference Participants Identify Key Issues Affecting Public Trust and Confidence

The pre-conference consensus on issues was derived from submissions of individual states. There were twelve issues on this pre-conference list:

- ◆ Poor use and treatment of jurors
- ◆ Lack of court accountability for public resources
- ◆ Unfair and inconsistent judicial process
- ◆ Lack of public understanding
- ◆ Inadequate response to change
- ◆ Inability of public to participate effectively in the justice system
- ◆ Poor customer relations with the public
- ◆ Unequal treatment in the justice system
- ◆ Bias in court personnel practices
- ◆ High cost of access to the justice system
- ◆ Lack of independence and sound interbranch relations
- ◆ Inefficient processing of cases

Conference participants were given the opportunity to reconsider these issue priorities in the light of public concerns expressed in surveys and a panel discussion designed to provoke thinking and add new insights. The extracts below illustrate the nature of the comments:

“Identifying and taking action against frivolous lawsuits is something, it seems to me, that has a tremendous potential for building public confidence.”

“One other area that, it seems to me, is awfully important for you to try to exploit is the Internet.”

“There just simply has to be an end to the reticence on the part of the judiciary and the judicial system to being a participant in the discourse about the law in your community.”

Lyle Denniston, National Correspondent, Supreme Court Reporter, ***The Baltimore Sun***

“. . . justice begins long before people ever get to your courtroom. . . . Justice begins when they’re settling a ticket and deal with that one district attorney who is settling that day.”

“. . . when people talk about the biggest barriers in terms of accessing the system, it was legal representation. . . . But sadly enough, I think the cost of

legal representation is, in fact, the most important factor, to quote, unquote, get justice.”

“I have been summoned seven times. I have yet to be able to serve on a jury. . . those lawyers do strike people, I don’t care what you say, it is inherently wrong because people can be struck for the wrong reasons.”

“. . . the whole movement that is occurring with drug courts . . . is in direct response to people believing that they should be able to play a fundamental role in the problem-solving capacity in their communities.”

“And the judges in this country have stepped back and said, hey, we sent them away, we are finished with them until they do something heinous and stand before you again. I think this is absolutely terrible. . . . You just can’t send people away and not be part of how to figure out how we make sure that their re-entry is done.”

“. . . it is only through judges and the sanctions that you all have done that we have ever been able to change behavior of people who have been in the criminal justice system.”

Beverly Watts Davis, Executive Director, San Antonio Fighting Back

“It seems to me clear that a significant number of people in this very room believe that critical issues can be addressed and solutions can be adequately designed without including the largest ethnic minority in the country, the perspective of Hispanic-Americans.”

“I would venture to guess that a survey of Hispanic lawyers would produce a much different result than a survey of the Hispanic community at large. Those of us who are more familiar are going to tell you a different story.”

“You are not here today to tell other people how to change. . . . I hope you are here to say how can I do my part as the court system?”

Mary Hernandez, Vice President, San Francisco School Board of Education

“The other point about where does justice begin beyond the courtroom is the issue of knowing one’s rights and knowing how to assert one’s rights.”

“. . . you have to be constantly aware that you need to be in the business of thinking about how to organize your institutions for the benefit of the users and that providers, meaning you, should not be the primary ones to be thinking about.”

“I know that those who sent the survey out don’t intend that, but sometimes when numbers are produced we have a tendency to give them a strong basis of importance that may not be warranted.”

“. . . the public has a pretty interesting and pretty well founded understanding of the rule of law.” That basic core of understanding is something I think can be built upon. . . .

“We are talking about a wide range of systems . . . all of which we call the justice system . . . the public, when they are given the opportunity to respond to these differences, they recognize these differences.”

Frances Zemans
Justice System Consultant

“Even though you have a sense of the person’s perspective, you may not have the depth of feeling unless you look broader and deeper. . . .”

Charles J. Ogletree (Moderator), Professor, Harvard Law School

Conference participants, meeting in small discussion groups, reconsidered the issues, weighing the pre-conference list of issues in the light of preceding panel discussions and speeches. Enough groups perceived the need to add issues that the initial list was amended for purposes of electronic voting. The additional issues were:

- ◆ the role, compensation and behavior of the bar in the justice system
- ◆ selection of judicial officers, merit and elective
- ◆ judicial isolation, lack of contact with the public

Conference participants, under the guidance of moderator Daniel Straub, President of Anabasis Straub and Associates, were given the opportunity to vote electronically on each of the fifteen issues. The purpose of the voting was to select a short list of key issues. The voters, on a scale of 8-0, were asked to rate the issues: critical and essential . . . one of the vital few that must make the short list; important and should make short list; important but less so in comparison; nice to have; and should not make the short list;

Preliminary voting established that about two thirds of the voters were members of state teams, in most cases headed by the state chief justice and including the state bar president, the state court administrator, and two or more citizens. The demographic characteristics of the 270-300 voters were found to be:

- | | |
|--|----------------------------|
| ● 28% public and civic representatives | ● 29 % lawyers |
| ● 25% judges | ● 18% court administrators |

Six issues made the short list – critical or important enough to be included in the national agenda (i.e., any issue with an average vote of 4 or more). The six included one

wild card issue that emerged from the discussion groups – partisan versus merit selection of judges. But the top three issues received sharply higher ratings than the other issues and stood out as priorities. A large middle group of issues were so close in rating that the appearance of three on the short list is not a definitive statement of priorities. The national agenda features the top three issues but is not restricted to them.

Issue	Vote
Unequal treatment in the justice system	6.4
High cost of access to the justice system	6.2
Lack of public understanding	5.8
Unfair and inconsistent judicial process	4.5
Partisan versus merit selection of judges	4.5
Poor customer relations with public	4.0
Judicial isolation: lack of contact with and perspective about public	3.9
Lack of independence and sound interbranch relations	3.9
Role, compensation, and behavior of bar in justice system	3.7
Inefficient processing of cases	3.6
Inadequate response to change	3.5
Poor use and treatment of jurors	3.5
Bias in personnel practices within justice system	3.4
Inability to participate effectively in justice system	2.9
Lack of accountability for public resources	2.2

With a few exceptions, there was not great variation in the voting pattern of the four major demographic groups at the conference (judges, lawyers, court administrators and civic/business). Judges felt that lack of public understanding was a more serious issue than did the other groups. Citizen representatives found bias and fairness issues to be more serious than did the other groups. Court administrators and citizen representatives found the issues of access to justice, unfair and inconsistent judicial process, and inadequate response to change to be more serious than did judges and lawyers.

Conference Participants Identify Effective Strategies to Address the Key Issues

The PT&C Conference was designed for strategic planning. Prior to the conference, the state participants received a staff memorandum on the definition of the term “strategy” with a request that they propose strategies to deal with the public trust issues in the state. These various strategies submitted by the states were translated into a set of “overarching strategies” that transcended any one issue.

Overarching Strategies

Strategy	Scope
Improve external communication.	This general strategy derives from frequently stated objectives of improving media relations and improving dissemination of court information to the public, particularly court users.
Improve education and training.	This strategy includes the many references to school curricula about courts and internal education programs for judges, attorneys, and court staff (the most common topics being bias sensitivity training and ethics).
Make the courts more inclusive and outreaching.	This strategy includes court-community collaborative efforts, appointment of citizens to court advisory committees, creation of user-friendly court environment, and more public appearances by judges to illustrate the openness of the courts.
Improve management and information technology.	A variety of strategies deal in one way or another with efficiency, planning, upgrading information available internally and externally, and improving public service.
Make changes in existing laws and rules governing court procedure.	Many strategies call for some change in civil or criminal procedure to enhance justice and the appearances of justice. Some of these call for changes in the adversarial system and the role of judges in seeing that the truth emerges.
Make courts adaptable to social change, particularly in the family area.	This strategy addresses the many specific strategies to create specialized forums to meet changing needs of society and court users and to accommodate a wider range of rehabilitative services.
Simplify courts to make them more accessible to persons without an attorney.	This basic strategy is designed to make courts and court procedures understandable to the lay person particularly the pro se litigant.
Change the economics of courts and the legal profession.	This is a broad inference from the submissions but reflects the idea that the nature of legal economics defeats access with courts accommodating lawyers rather than litigants and allocating court resources accordingly.
Strengthen and improve the relations of	There were a number of strategies involving court

the judiciary with other branches and court-related agencies.	relationships with the legislative and executive branches and with criminal justice agencies and treatment providers. This includes the adequacy of appropriations for courts to perform at the level set in the <i>Trial Court Performance Standards</i> .
Enforce court procedures and powers of superintendence.	This strategy appears most often with reference to discipline against attorneys but applies to the self-policing of the judiciary and the necessity for the public to perceive that the courts are making an effort to uphold professional standards.
Make the courts demographically representative of the community they serve.	This strategy comes up in a variety of contexts, specifically the composition of the judiciary, court staff and juries.

Effective judicial leadership was implicit in most of the strategies. Court officials at a March 1999 meeting on public trust and confidence organized by the National Association for Court Management explicitly chose judicial leadership as a key strategy and provided their voting results as an input to the PT&C Conference.

In a panel discussion of strategies, panel moderator Bruce D. Collins, Corporate Vice President and General Counsel, C-SPAN, asked each panelist to concentrate on one strategy. The panel highlighted seven strategies, some of them not on the original list.

Strategy: Implement the recommendations of the task forces on gender and race bias in the courts.

- ◆ . . . some of you, I regret to say, didn't bother to appoint an implementation committee.
- ◆ So my strategy is that you implement the recommendations of the task forces on gender and race bias in the courts and you do so in the context of a comprehensive plan that builds on the implementation successes that other states have had.

Lynn Hecht Schafran, Director, National Judicial Education Program

Strategy: Enforce court procedures and powers of superintendence.

- ◆ What judges are not doing is the problem.
- ◆ . . . most judges are reluctant to control the lawyers who come under their supervision. And judges are the only people who can control lawyers.
- ◆ . . . there needs to be a system administered by the judges themselves for identifying judges who have problems, helping those judges remedy those problems and, if those judges can't have their problem remedied, then finding ways to encourage those judges to move out of their positions or get them defeated at the next election.

W. Seaborn Jones, President Elect, National Conference of Bar Presidents

- ◆ The woman runs a tight courtroom - - well, a man, he runs a tight ship, and a woman, she's a bitch. That's flatly what it is.

Lynn Hecht Schafran, Director, National Judicial Education Program

- ◆ I spent nine years in my career defending and regulating lawyers as General Counsel to the State Bar of California, and probably the most frequently asked question I'd get from the public was why discipline rules don't apply to incompetent lawyers in the same sense that they thought it would. . . .

Diane C. Yu, Associate General Counsel, Monsanto Company

Strategy: Judicial involvement in educating the public, end of isolation.

- ◆ . . . judges have isolated themselves from the communities we serve.
- ◆ . . . in terms of the operation of the system, we are the ones who ought to be held accountable. We are the leaders.
- ◆ So this education thing - - that's what we want to talk about, judges taking responsibility for educating the public. I don't mean PR. . . . I mean educating them about the fundamental role of the judiciary in our society and our role in disposing of disputes in a fair and just manner.

Veronica McBeth, Presiding Judge, Los Angeles Municipal Court

Strategy: Improving media understanding of the system.

- ◆ I submit that branch of the media that focuses on those sensationalist trials has overheated public perceptions. . . .
- ◆ . . . if I were proposing a strategy, I would follow Judge McBeth out of the courtroom into the public, into as many newspaper newsrooms as I could, to say – look out, someone is going to propose this, some lawyer is going to spin, some prosecutor, some defendant, and you are going to get burned, and I can't stop it unless you are willing to understand why this runs counter to everything that has traditionally been sacred in the administration of justice.
- ◆ I thought Governor Cuomo made the point. I mean, the First Amendment is there so that you can speak out and protect the Fourth, Fifth, and Sixth. And it is for that reason I suggest to you that a media strategy must be part of any strategy that helps educate the public.

John Seigenthaler, Founder First Amendment Center, Vanderbilt University

Strategy: Improve the use of information technology in courts.

- ◆ . . . Information technology – is a low-hanging fruit. It is something that could be done.
- ◆ . . . we, who care about the court system and justice system, can truly embrace information technology in a meaningful way that is going to save time, save money and get both information and training accomplished in very expeditious ways.

Diane C. Yu, Associate General Counsel, Monsanto Company

Strategy: Improve education and training.

- ◆ I think it very important if we want judges to be community educators, if we want them to be in dialogue with the media, we have to give them the skills and tools to be able to do it effectively.
- ◆ {referring to an organization whose members regularly appear in family court} They are expecting to find judges and court officers who really know something about family law issues. And instead, what they are finding are lawyers who are now judges but they used to be prosecutors or defenders or . . . land use lawyers. The court hearing officers are recent college graduates. None of these people has had specialized education in child development.

Lynn Hecht Schafran, Director, National Judicial Education Program

Following the panel discussion, the conference participants again met in small group sessions. They considered strategies and added five, some of which directly stemmed from the panel discussion. The additional strategies were:

- ◆ Swift, fair justice . . . resolve cases with reasonable promptness/cost
- ◆ Improve practice of law to provide universal, affordable, competent/professional legal services by lawyers
- ◆ Evaluate judicial performance . . . gather data from litigants on courtroom experience
- ◆ Implement the recommendations of gender, race and ethnic bias task forces and replicate the successes in other jurisdictions
- ◆ Share programs and activities among the states that have been used to improve public trust and confidence

On a scale of 8-0, the conference ranked the sixteen strategies by effectiveness in building public trust and confidence. Six strategies received a rating of 5.0 or more and clearly stood out.

Strategy	Vote
Improve education and training	5.9
Make the courts more inclusive and outreaching	5.6
Improve external communication	5.6
Swift, fair justice...resolve cases with reasonable promptness/cost	5.4
Share programs and activities among the states that have been used to improve public trust and confidence	5.4
Implement recommendations of gender, race and ethnic bias task forces & replicate the successes in other jurisdictions	5.0
Make the courts more demographically representative of the community they serve	4.3
Improve management and use of information technology	4.1
Enforce court procedures and powers of superintendence	4.0
Evaluate judicial performance...gather data from litigants on courtroom experience.	3.8
Simplify courts to make them more accessible to persons without an attorney	3.7
Improve practice of law to provided universal affordable, competent legal services by lawyers	3.7
Change the economic of the courts and the legal profession	3.4
Strengthen and improve the relations of the judiciary with other branches and court-related agencies	3.3
Make changes in existing laws and rules governing court procedure	3.3
Make courts mode adaptable to social change	3.3

Conference participants, having identified key issues and set strategic priorities, were asked two fundamental attitudinal questions. Both questions were answered strongly in the affirmative. Ninety per cent of the voters concurred that public trust was indeed a problem. Fifty-five per cent felt the primary responsibility for building public trust lay with the judiciary, but underlying this vote were some sharp divergences by voting group. Over 70% of the judges felt the judiciary had the primary responsibility; 80% of the court administrators agreed. But 60% of the lawyers felt that the bar had primary responsibility for building public trust. The public and civic members were very close to the conference consensus.

Barriers to Effectuating Strategies to Build Public Trust and Confidence

In an open microphone session moderated by Professor Arthur Miller of Harvard University Law School, the conference participants faced the reality that there are many obstacles to effectively implementing strategies. Even though many of the speakers identified themselves as judges or lawyers, the speakers overwhelmingly felt that the barriers to implementing effective strategies were internal barriers – impediments found within the judicial and legal professions and arising from the procedural rules governing the system. (see Attachment C: Barriers to Effectuating Strategies for Building Public Trust and Confidence).

The comments on the judiciary reflected concern that inertia, complacency or isolation of judges would make it difficult to implement strategies and to address problems in the judicial system:

I don't think they listen. They talk.

I think one of the barriers to building public trust and confidence is our lack of innovation in allowing people to come into our system to observe what goes on there.

I think we have walled ourselves off as a very non-democratic institution.

There is a lack of will to do anything other than what we have been doing.

I'm a trial court judge, and I have been involved in improving public trust and confidence in our community and our state for some years now. And I think one of the biggest barriers that I'm concerned about is how do we get more trial judges involved in doing this kind of work.

We cannot get together as a community and business leaders and civic leaders and lawyers and talk about changing the administration of justice if the judges are not there because we are just wasting our time.

I think perhaps we need to talk about a failure to aggressively deal with race and ethnic bias.

. . . It doesn't matter how many education programs we have, how many outreach programs we have, if we don't have something to sell. . . we'll continue to do the same things in the same way.

We have been trained, all of us, through our educational process to be competitive, to understand a hierarchical mode of leadership. And we need to understand now is that we need to be service leaders and we need to be facilitating, collaborative leaders rather than order givers.

Reacting to the above comments one speaker observed:

. . . we can't expect the courts to do everything, be everything, and solve all of society's problems.

The comments on the legal profession, all from leaders in the bar, pointed to the barriers to change within the legal profession.

And the practice of law is driven more by money now than it was 25 years ago. As a consequence, many members of the public are denied access to the system for various reasons that are mostly procedural process, and other members are really unhappy about what they have to pay for access.

. . . these results are caused mostly by failure or abuses by lawyers of rules . . . and failure of judges to control those lawyers.

. . . we need to educate lawyers and judges about this, not the public.

We talked yesterday about three major problems that are causing the lack of public trust and confidence: growing cost of litigation, the long delays, the lack of civility in the process. We, not the judges, are the main causes of all three.

I think the real problem is that, as a profession, we have failed to address fundamental questions. . . . how are we going to get more diversity in our profession?

Are we willing to put some limits on the extent to which lawyers can go in representing their clients? Will we put limits on the right to cross-examine a witness? Will we put some limits on fees that are earned in some types of cases? And what about advertising?

There were a number of comments indicating the belief that current legal procedures are a major barrier to implementing change strategies.

And while education truly is something which is necessary - - to know us is to love us - - but our discussions {business advisory council in Idaho} typically are more on the procedural matters, the difficulties of access, the difficulties of cost, the difficulties of time. And these, to me, are the problem.

. . . I think looking at procedures and how they might be changed in a way to make the courts more user-friendly. In other words, should a businessman have to decide a matter based upon whether they are right or wrong or based upon the cost they may have to pursue this matter?

We hear from many parents . . . and many grandparents, who wonder why they have to spend so many tens of thousands of dollars to maintain a relationship with their children because there has been a divorce.

They wonder why we can't have . . . more expedited pro se visitation and handling . . . more parent mediation . . . more joint-custody mediation, parenting plans . . . a little less heavy influence of litigation and a little more conciliation, demilitarizing of the process.

*What I see is that the judicial system . . . is not equipped to solve many problems. For example, controversies involving business people that require expeditious decisions
. . . it is my opinion that the Chambers of Commerce and many other groups within the community will have to stimulate the creation of formal tribunals to try to solve these problems using other means.*

Not all the comments focused on the professional and procedural barriers. Two speakers alluded to the dearth of reliable detailed data on public trust and confidence and the way in which court operations affect this confidence. One speaker noted the difficulty of obtaining adequate financial and programmatic support from the legislature, for example, the refusal of the legislature to fund a public information officer for the court. Two speakers feared that educational programs might be too heavily focused on the importance of the judiciary and ignore the need to educate citizens on their rights and how to obtain access to justice.

At this point in the Conference, the participants turned to actions that would overcome these barriers and lead to effective implementation of strategies. These actions were both state and national. The stage had been set for the National Action Plan.

Conference Participants Identify National Roles and Actions in Overcoming Barriers

The last part of the PT&C Conference was devoted to national actions to overcome barriers and support state strategic planning. The proposed actions were derived from a staff analysis of what national organizations actually do and what some states suggested these organizations might do. Conference participants spoke to national organizations in three ways: ranking ten possible national roles to improve public trust and confidence in the justice system; discussing these roles in an open microphone session; and indicating in writing at small round table sessions specific action steps that should be taken. The voters ranked possible national roles on an 8-0 scale that ranged from 8 (critical that this national role be in the National Action Plan) down to 0 (should not be in the plan). The participants gave precedence to the dissemination of models and best practices, indicating the widespread belief that there are many successful programs that are simply not well known. Four of the eight roles received a vote of 5.0 or more. Eight of the ten roles received a vote of 4.0, meaning that their inclusion in the National Action Plan was deemed important. None of the ten was rejected as unworthy of inclusion.

National Role	Vote
Develop and/or disseminate models or best practices	6.1
Examine the role of lawyers and their impact on public trust	5.5
Engage in public education at the national level	5.5
Improve public access through information technology	5.2
Foster and maintain network to sustain public trust	4.9
Provide national education programs for persons within the system	4.7
Develop standards and procedural reforms	4.7
Promote ongoing national dialogue on public trust	4.6
Provide specialized expertise	3.8
Act as liaison or take proactive stance with the federal government	2.9

The participants suggested actions to flesh out the various roles. In some instances, the actions were state or local in nature but provided indications of conference participants' thinking on the direction of state strategic planning. The suggestions were made in writing and in an open microphone session. In the latter session, and also in some of the earlier panel and open discussions, speakers volunteered resources to aid in the implementation of strategies to build public trust and confidence.

National Role: Develop and/or disseminate models or best practices.

The suggested actions were divided between means of disseminating models and the nature of the needed models.

Suggested Actions

Dissemination

Have national organizations coordinate their dissemination of models
Central web site and clearinghouse for public trust and confidence, Internet access
Post policies and standards, not just programs
Organize postings in categories to make them more useful and accessible
Disseminate successes to public through media
Distribute existing ABA materials more widely
Disseminate the existing curricula for elementary and secondary schools more widely
Sort out the local-state-regional- national roles in clearinghouse

Needed models

Model public trust and confidence curriculum.
Model community outreach programs
Model pro se programs
Model ADR programs
Model public information programs
Disseminate “best practices” in connection with the *Trial Court Performance Standards* and place them on Internet
Model speeches for judges speaking in public forums
Model customer service standards
Model traffic court (cited as key to public trust because of frequent contact)

Proffered Help

Judge Veronica McBeth recommended a model program on court-community relations and recommended a handbook issued by the California Judicial Council: *Courts Reaching out to Their Communities: A Handbook for Creating and Enhancing Court and Community Collaboration*.

Chief Justice Major Harding of Florida described the televising of appellate proceedings and their connection to education of school children who can monitor actual cases in their schools. Eight to ten thousand students visit Tallahassee and have the opportunity to participate in an oral argument and learn about the three branches. If they are present during an oral argument in court, they receive an explanation of the case and the arguments.

In keeping with the PT&C Conference stress on public outreach, the American Bar Association cited its publication: *Judicial Outreach on a Shoestring: A Working Manual*.

Jim Thompson, President of the Maryland Bar Association, described a bar-funded program on citizen-related education. The course is taught by judges and lawyers and trains teachers to teach about the legal system.

Ed Schoenbaum, Chairman of the National Conference of Administrative Law Judges, called attention to an Alabama curriculum on courts developed for the school children of that state.

National Role: Examine the role of lawyers and their impact on public trust.

The actions pertaining to lawyers fell into four categories: behavior, the nature of law practice, economics of the profession, and law school education. Several commentators indicated that some of the problems of public trust stemmed from legal education.

Suggested Actions

Behavior

Enforce sanctions against dishonesty, gross negligence, contumacious behavior, and incivility by lawyers; encourage ABA to back up judges
More emphasis in law school and CLE on role of attorneys as officers of the court and their duty to avoid denigration of the judiciary
Inculcate more professionalism
Modify the rules of ethics to reflect above changes

The nature of law practice

Work with AALS to place more emphasis on ADR and dispute resolution
Study the future of the profession and end outgrown practices
Change rules of procedure
Educate judges and attorneys on the defects in the justice system that they can cure, particularly sensitivity to public concerns about legal competence
Analyze the legal system in relation to public trust

Economics

Bring about more realistic economic aspirations and end exorbitant fees in class action cases
Unbundle legal services (ABA leadership suggested)
ABA should commission a special study group to study adequate legal services to all segments of society at a reasonable cost
Place limits on the number of attorneys
Hold national conference on economics of legal profession

Legal Education

Law schools should teach more about how court systems work and are administered
Lawyers should be taught more about the justice system and its place in the social structure
CLE courses should include training on the reduction of race, ethnic and gender bias
Have race and gender bias programs for attorneys and encourage law schools to have more diversity in their admissions, perhaps tying this to accreditation

National Role: Engage in public education at the national level.

The suggested actions fell into four categories, those of a general nature, development of education materials and their dissemination, building educational networks, and imaginative use of electronic media.

Suggested Actions

General

Issue an annual state of the state courts report for national dissemination
Do publicized summit on pro se litigants in court
Form national speakers bureau
Form quick response teams of lawyers and judges that can make media appearances to comment on sensationalist or distorted coverage

Development and dissemination of educational materials for distribution to media, educational institutions.

Develop videos on judicial system in a democracy
Disseminate ABA's "The American Judicial System"
Develop "best practices" descriptions for distribution to public about what courts are doing
Develop "key issues and themes" material for local use
Develop a model school curriculum (K1-12) at national level (stressed that school curricula are often driven by standardized tests, so that these have to be considered)
Develop adult education programs directed at impact of the justice system on them, emphasize that litigation is a last resort and cite other methods
Develop media packets on courts for use by court PIOs and bar association PIOs or for direct distribution
Develop documentaries for media presentation, PBS, even commercial media
Develop brochures and templates for local conferences on public trust and confidence (suggested ABA, NBA, and state bar involvement)

Develop educational networks

Involve educators, PTAs and school administrators at all levels in public education on courts – obtain commitments and from committees
Coordinate various state efforts in public education to facilitate exchanges and short cuts
Conduct dialogues with entertainment industry with respect to portrayal of judges and legal system; provide pro bono technical advisers to directors of films on courts and judges.
Create a center that brings together national justice organizations and public radio/TV on a regular basis; make better use of PBS

Make imaginative use of radio/TV

Show judges listening, more interactive formats

Use lawyers and judges to counter sensationalism and to explain how to look at a trial

Use round tables and get national TV to popularize and package some of the discussions on courts and the justice system

Develop short 30-second spots to counter popular misconception about courts; develop marketing and ad campaigns

Strive for continuous media programming on public expectations of courts – have a long-term view

Proffered Help

One speaker in an open microphone session lauded moderator Arthur Miller for his role in a public television roundtable “The Constitution: the Delicate Balance” and asked him if he could do something similar on public trust and confidence. He answered: “I personally believe information companies ranging from American Express to AOL, might be interested in a series about the legal system or the legal profession.”

National Role: Improve public access through information technology.

The suggested actions in this area were applicable to many national roles. So, there was some overlap with actions listed elsewhere.

Suggested Actions

Obtain federal funding for IT to facilitate public access (frequently mentioned as a necessity)

Create clearinghouse to gather and make available tested IT innovations in public access

Establish some standardized terminology and nomenclature to facilitate the usefulness of information to users

Expand cameras in court and televised hearings, particularly appellate arguments

Institute electronic filing, permit faxed and E-mail filings and service by same means on other parties

Make available basic user information on the courthouse electronically in court facility and on PCS, perhaps in connection with a customer information center: hours of operation, where to go for specific matters, standards of public service that are in effect, calendars for the next few days

Permit court users to indicate their satisfaction with court services by responding to E-mail survey

Have user-friendly menus for litigants wanting to know their options in various types of proceedings

Expand electronic access to court records: dockets, calendars, case records

Expand electronic access to legal materials – statutes, rules, opinions (should be public domain)

Place kiosks in public places to facilitate public inquiry

Use electronic (or at least phone) methods of fine payment

Involve law librarians in all planning and implementation of public access to information about the law and courts
Use Internet for disseminating protective orders

Proffered Help

James Heller, President of the National Association of Law Libraries, offered the information technology expertise of its members to enhance public access to legal information.

National Role: Foster and maintain network to sustain public trust.

Many of the suggested actions dealt with continuation of the networks put in place by the Conference. The others dealt largely with the types of groups that should be in the network.

Suggested Actions

Follow-up on conference momentum, specifically:

- Conference sponsors should maintain liaison with state teams or some PT&C committee in each state

- Keep state teams alive; have them meet

- Give state something to do – something to report back on public trust and confidence

- Define “national action plan” and distinguish it from the role of national organizations in connection with this plan

- Create permanent staff to maintain the national effort to build public trust and confidence; have staff at state level who will be able to keep national organizations abreast of developments

- Judges, bar leaders, and court administrators have to continue conveying the “message”

- Use association public information officers as the hub of follow-up effort as they have central role in public communication

- ABA should serve as a catalyst through state and local bar associations

Involve more non-legal groups, citizen committees and organizations like the League of Women Voters, AARP, NOW, churches, PTAs, teacher groups; (concerns expressed over representatives of special interest organizations overshadowing citizen representatives)

The non-lawyer groups in the juvenile and family area were recommended for inclusion in any network, specifically: MPCL and the Ford Foundation that aid unwed parents to get jobs and the Children’s Rights Council

Involve business groups and professional groups such as doctors and health care providers

Involve legislators and executive branch officials, have legislators spend time with judges in judicial workday

Network with law enforcement agencies; they have to be included because many of the complaints about bias in courts arise from arrest patterns
Develop model networking procedures for dissemination to states
Use coordinated task force approach that has been used for racial and ethnic bias
Create regional networks on public trust and confidence

Proffered Help

Ted Gest of *U.S. News and World Report* called attention to a new association of criminal justice journalists. He indicated that they would give a fair hearing to those offering information about the justice system and would disseminate newsworthy and constructive stories about criminal justice.

National Role: **Provide national education programs for persons within the system.**

It was observed that the National Judicial College has a mission to educate judges and that there are well-established state programs for judges, as well as CLE programs for lawyers. It was perceived that national organizations might be of help in areas of education that are not standard inclusions in existing curricula and that the existing curricula might be influenced by these. The comments stressed sensitivity and judicial demeanor.

Suggested Actions

National organizations can develop teaching materials and videos on court-community collaboration, sensitivity to racial, ethnic and gender bias, and treatment of witnesses, jurors and parties
The testing of nationally developed models in selected states was proposed as a means of testing and disseminating education tools
Training for judicial nominating commissions on the criterion of public outreach skills
It was felt that some help could be provided on defining role of judges in therapeutic justice, especially in the juvenile area
Training for judges in scientific method and technology relevant to their role
Mandatory CLE for judges was recommended
National organizations could develop standards of public service and teaching curricula built around them

National Role: **Develop standards and procedural reforms.**

The most frequently mentioned change was modification of the rules governing judicial behavior in order to permit public outreach by judges. Many of the suggested actions were reforms of civil procedure.

Suggested Actions

Rewrite the behavioral standards to permit more public outreach by judges
Promulgate rules of courtroom decorum, including treatment of jurors, witnesses and parties, and hold judges accountable for enforcing them

Civil procedure reform, specifically:

- Develop non-adversarial procedures and ADR and disseminate them

- Develop and disseminate self-representation tools and procedures and disseminate them

- Conduct study of effect of current procedures on access and cost and modify rules accordingly

- Handle many simple proceedings ministerially

- Have mandatory mediation for certain types of cases, starting with family cases

- Limit depositions in relation to the nature of the case

- Develop simple procedures in areas of the law affecting the most people: traffic court, landlord-tenant, divorce and family court; provide IT and self-help packages and produce models

Promote jury reforms that increase juror participation

Limit or end peremptory challenges (seen as aspect of discrimination against minorities)

Encourage dialogue between tort reformers and trial lawyers

Make communication skill (hearing and speaking) and community outreach skill factors in judicial selection

Make court procedures and operations more amenable to the use of volunteers

Apply the *Trial Court Performance Standards* and report successes and evaluation techniques

Introduce differential case management

Study effects of statutes on mandatory sentencing

National Role: Promote ongoing national dialogue on public trust.

There were relatively few action recommendations in this area. There was some overlap with the networking role.

Suggested Actions

Continue conversation among courts and national organizations to keep issues alive, issue a periodic newsletter that captures progress on public trust issues and the nature of the ongoing dialogue

The real dialogue is at the state and local level; the national role is to encourage, support and report such dialogue

Use national town hall meetings that tap into specific localities and what they are doing in court-community dialogue to build public trust

Dialog is multi-faceted; courts have to identify their different constituencies (business, minority groups, etc.) and speak to them separately – one group could be recent court users

Important at all levels that judges themselves be involved in the dialogue or there will be no sustained effort

National Role: Provide specialized expertise.

This national role was ranked low by PT&C Conference participants but nonetheless evoked many suggested actions.

Suggested Actions

Keep lists of experts and speakers on specialized topics
Provide training TA in sensitivity, bias control, collaborative methods of handling cases, community outreach, public service, problem-solving process, and strategic planning
Technical expertise in putting together interstate information networks
Expert help in establishing and evaluating specialized courts, like drug courts
Help in establishing standards for court interpreters
Help in implementing Trial Court Performance Standards, improving efficiency, and resource development
Help in effective public communication

National Role: Act as liaison or take proactive stance with the federal government.

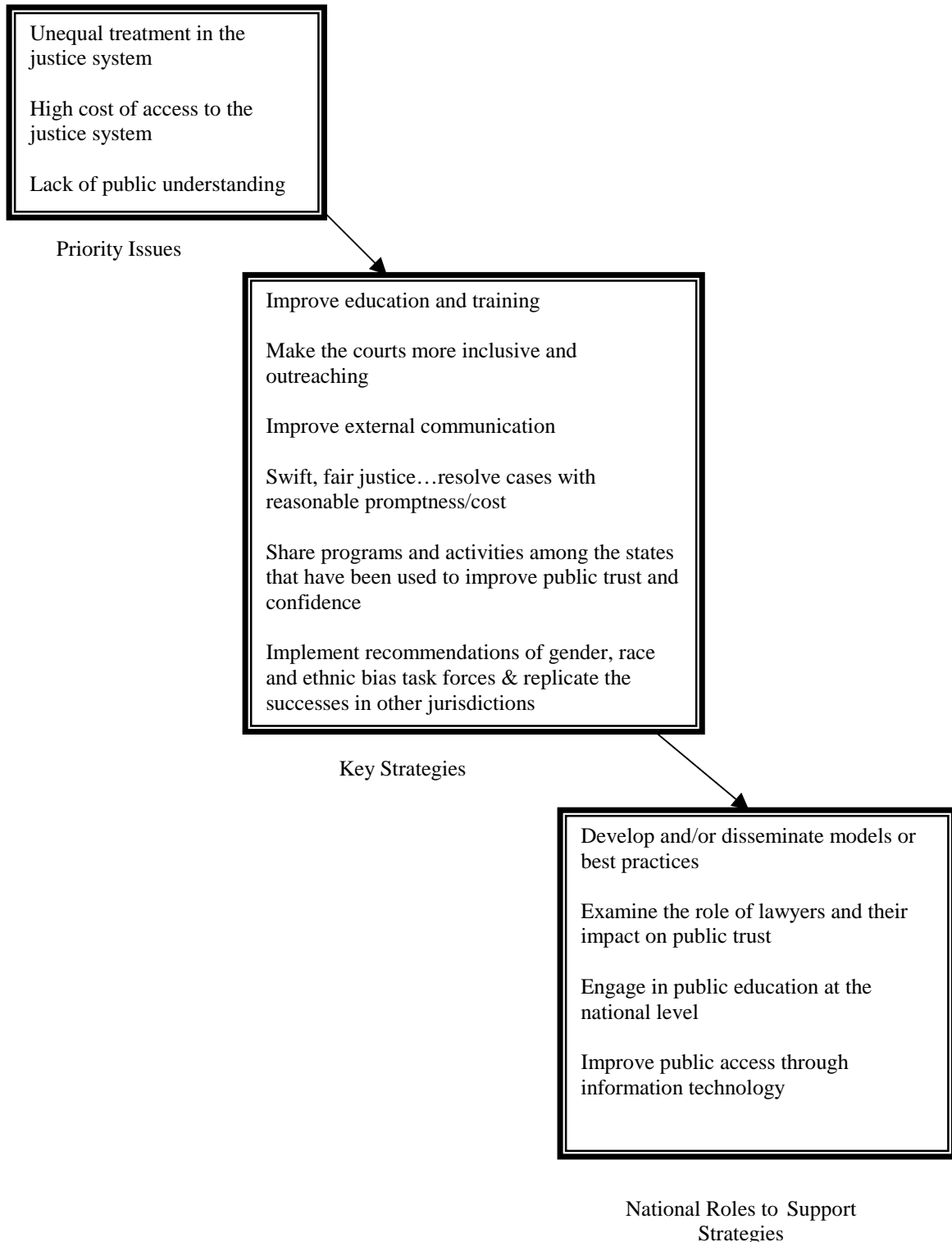
The suggestions in this area were oriented to limiting federal incursions into the state domain and funding.

Suggested actions

National organizations serve as watchdogs to slow down and deter federal intrusion into state courts (frequent mention of federalism issues)
Take proactive stance with Congress and federal agencies on programs, such as support for strategies chosen at the conference
Work more with state legislators in dealing with conference
State judges, speaking for judicial organizations, have to be the lead persons in any dialogue with Congress or federal agencies
Attempt to get federal agencies that fund courts to coordinate their efforts
Have one central source to report actions of these agencies with respect to courts
Emphasize federal funding for technology and Legal Services

Conference participants, after expressing itself on the national roles, were asked if there was a better than 50% probability that the national action plan resulting from the conference would actually improve public trust and confidence. Seventy-four percent (74%) of the voters agreed that there was such a probability.

Through electronic voting, conference participants established a national agenda for public trust and confidence. They chose the top issues affecting public trust, the key strategies to address these issues, and the national roles most supportive of these strategies.



A Call to Action

In a concluding address to the PT&C Conference Sandra Day O'Connor, Associate Justice, Supreme Court of the United States, added some ideas on actions that should be undertaken. These actions were, for the most part, state and local actions, but all had national implications.

In the planning that follows this conference, I personally hope that a high priority will be given to this area {family and juvenile} and that judges, law schools, judicial educators and judicial planners will give family and juvenile justice the attention it deserves.

The perception that African-Americans are not afforded equality before the law is pervasive, and it requires us to take action at every level of our legal system, especially at the local level.

As result of this conference, I hope that states will begin to explore the permissible scope of court-community relations and examine the various ways in which these relations can be strengthened.

. . . there are serious problems with handling of juries today in many jurisdictions. First, the conditions of jury service. . . they {jurors} are treated more like sheep than people. . . .

Second is jury selection. . . in many cases highly paid jury consultants. . . attempt to insure a jury favorable to the side paying their fees. . . .

Third, the conduct of the trial itself. Too often, jurors are allowed to do nothing but listen passively to the testimony. . . .

At the very least, every state should reexamine and perhaps narrow the use of peremptory challenges in which jurors are excused with no reason given. . .

There has been increasing recognition that in capital cases, in particular, the availability and quality of representation is sometimes inadequate. . . .

. . . The economics of modern law practice excludes many people and small businesses from trying to seek civil justice through the courts. . . there is . . . a pressing need to provide access to representation in civil cases to those who can't afford it.

. . . we have to continue to encourage alternative dispute resolution at early stages of cases

In a final charge to conference participants, Justice O'Connor issued a call to action:

. . . . It is my hope that this conference has given you some ideas for actions you can take when you go home to put the goals of this conference into effect and make it the landmark event that its organizers hoped it would be.

Part II National Action Plan: The Implementation Plan

Introduction

The purpose of the Implementation Plan is to establish a structure and process to support implementation of the national agenda on public trust and confidence by state and national organizations. The Plan seeks to establish a national network to build public trust and confidence in the justice system by

- promoting on-going national dialogue,
- facilitating the sharing of information – activities, models and best practices, and
- coordinating the actions of state and national organizations.

The Implementation Plan consists of four tasks which are summarized in the Task Structure below.

Task Structure for Implementation Plan

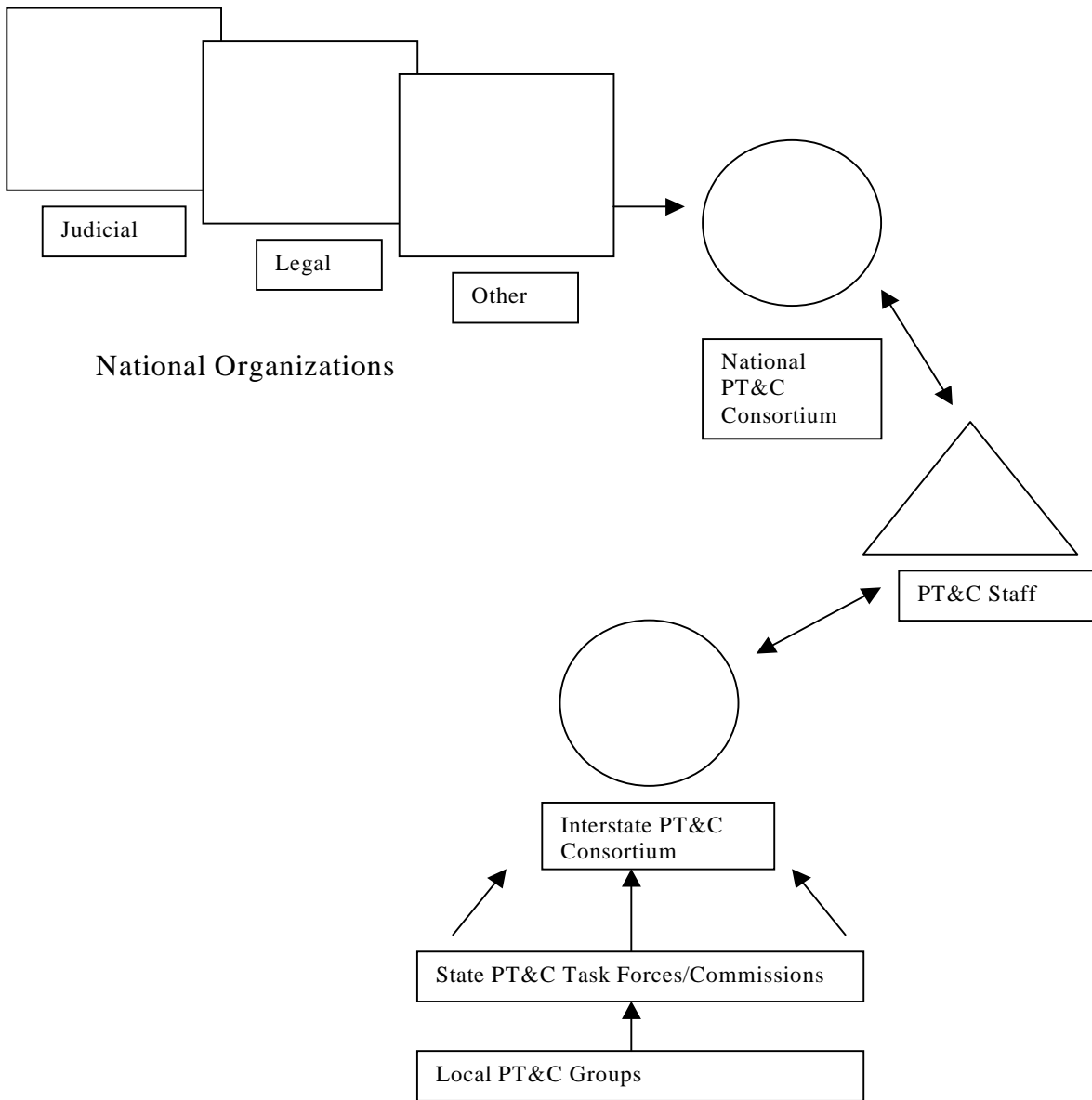
Task	Title	Description
1.0	Establish Implementation Infrastructure	Establish an implementation infrastructure built around a consortium of state PT & C task forces or commissions and a consortium of national organizations involved in plan implementation. Define staff support serving the consortiums.
2.0	Create PT&C Electronic Information Network	Create a telecommunications system that links core state and national organizations in a public trust and confidence network. Define an expanded Web site and clearinghouse function.
3.0	Develop Information Base of Activities to Build Public Trust and Confidence	Start building information base on activities of state and national organizations in building public trust. Examples of the information to be collected are set forth in this draft.
4.0	Develop Resource Plan	Start the process of seeking resources for the continuation and support of initiatives to build public trust and confidence in the justice system.

Task 1: Establish Implementation Infrastructure

A concern of the conference participants was follow-up, specifically the organizational responsibility for coordinating implementation of the NAP. To deal with a multiplicity of state and national organizations on an individual basis is not feasible. There has to be a coordinating mechanism linking national organizations, and a parallel mechanism for state task forces or commissions on public trust. One conference participant suggested formation of consortiums of organizations engaged in activities to build public trust and confidence. Above all, there was a perceived need for staff support

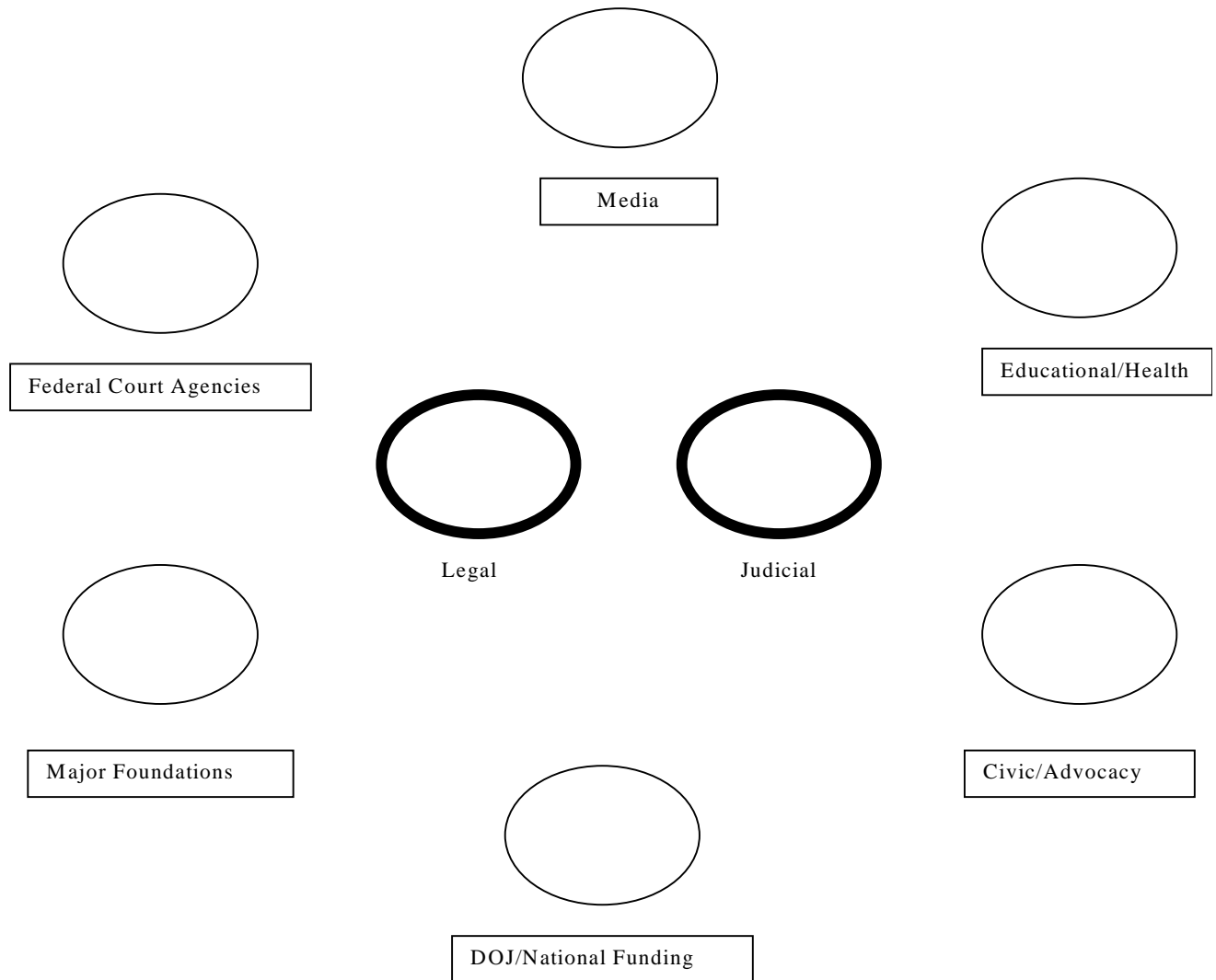
to link state and national efforts and to provide some focus for implementation of the NAP.

There are state-level prototypes of a consortium approach: the National Consortium of Task Forces and Commissions on Racial and Ethnic Bias in the Courts, the Consortium for State Court Interpreter Certification, and the Consortium on State Court Automation Standards. There is a partial prototype at the national level - the Assembly of Court Associations formed in 1998 by national organizations representing some component of the state courts. Depicted below is a configuration that combines these ideas in a proposed infrastructure for implementing state and national efforts to build public trust and confidence in the justice system.



NAP IMPLEMENTATION INFRASTRUCTURE

The national organizations at the core of NAP implementation are primarily judicial and legal organizations, but they do not stand alone. Through them, other interested national organizations also can be involved. Similar networking will occur at the state level.



NATIONAL ORGANIZATIONS

The planning for the conference and the PT&C Conference itself involved a great number of legal and judicial organizations that will play a role in implementing the NAP. Judicial organizations that are, to varying degrees, important to plan implementation are listed below in five categories.

Judicial Organizations

Type of Organization	Organization
Organizations of judges	Conference of Chief Justices American Judges Association Appellate Judges Conference Council of Chief Judges International Association of Women Judges National Association of Women Judges National College of Probate Judges National Conference of Metropolitan Courts National Conference of State Trial Judges National Conference of Special Judges National Council of Juvenile and Family Court Judges
Organizations of non-judge employees	Conference of State Court Administrators National Association for Court Management National Association of State Judicial Educators National Court Reporters Association American Association of Electronic Reporters and Transcribers Council of Appellate Staff Attorneys National Conference of Appellate Court Clerks Public Information Officers Conference
Court support organizations	American Judicature Society National Center for State Courts National Judicial College National Juvenile Court Services Association
Other	American Association of Law Libraries National Association of Drug Court Professionals Consortium of Task Forces and Commissions on Race and Ethnic Bias Consortium for State Court Interpreter Certification Consortium on State Court Automation Standards
Court-dedicated funding agency	State Justice Institute

There are a number of national legal organizations that also relevant to implementing the NAP. Some of these were active in the PT&C Conference or already collaborative with state courts. The most actively involved legal organizations are listed below. The Association of American Law Schools is listed because conference participants strongly felt that legal education was important in building public trust in the justice system. Not listed, but perhaps relevant, are national organizations on continuing legal education and lawyer discipline.

Legal Organizations

American Bar Association, in particular:
Judicial Division, Lawyers Conference
Coalition for Justice
Ad Hoc Committee on State Justice Initiatives
National Bar Association
National Hispanic Bar Association
National Conference of State Bar Presidents
National Conference of State Bar Executives
Association of American Law Schools

Involvement of organizations outside the core judicial and legal organizations is essential. How this is accomplished at the state and national level and the nature of the involvement is dependent on the direction that strategic planning takes. Several conference participants suggested that the National Conference of State Legislatures be included among the national organizations important to plan implementation. In general, the suggestions for involvement of national organizations fell into the following categories:

Other National Organizations

Organization Type	Description of Proposed Organizational Involvement
Civic/ advocacy	The League of Women Voters was a conference sponsor and a public voice. Conference participants suggested a broader involvement of civic and advocacy groups, notably those representing women, minority groups, senior citizens, children, and business and labor organizations. There are national citizen organizations focused on court improvement, e.g., Citizens for Independent Courts, and comparable organizations at the local level, e.g., the Council for Court Excellence in the District of Columbia. Both these organizations were invited to the post-conference meeting on plan implementation.
Media	The Conference spoke in general tones about ties to the media but not much about specific organizational links. One such link was suggested by a journalist at the PT&C Conference. He suggested

contact with an organization of criminal justice journalists of which he was a member.

Education/ Health Groups	The emphasis on public education at the PT&C Conference led to suggestions that national associations of educators be involved in plan implementation. Suggestions for involving associations of health care providers stemmed from conference references to drug courts and therapeutic justice.
Department of Justice/ National Funding	The Bureau of Justice Assistance, Office of Justice Programs, United States Department of Justice (DOJ) provided financial support for the Conference. Various DOJ programs are possible funding sources for court improvements to build public trust: Violence against Women Office; the National Institute of Justice, Drug Courts Programs Office; Bureau of Justice Statistics; Office of Juvenile Justice and Delinquency Prevention; and Office of Victims of Crime. The Children's Bureau and Office of Child Support Enforcement in the Department of Health and Human Services, and the National Highway Traffic Safety Administration of the Department of Transportation are other possible sources. The traffic programs have significance because of Conference emphasis placed on the impact of traffic courts on public attitudes about courts.
National Foundations	The Ford Foundation was mentioned specifically as a funding source, but most references were generic and focused largely on public educational efforts, such as the production of documentaries and videos.
Federal Court Agencies	There was considerable federal court involvement in the PT&C Conference. In addition to speeches by chief Justice Rehnquist and Associate Justice O'Connor, a number of federal judges attended under the auspices of the Committee on Federal-State Jurisdiction of the United States Judicial Conference and with the financial assistance of the Federal Judicial Center. Ongoing contacts with the federal judiciary are important to plan implementation.

Task 2: Create Electronic Information Network

In addition to establishing an implementation infrastructure, it is necessary to create a telecommunications system that links the state task forces/commissions, national organizations, and other interested participants in a public trust and confidence electronic information network.

The Public Trust and Confidence Electronic Information Network would consist of three components. A general Public Trust and Confidence web site will act as an umbrella site for PT&C-related information. In addition to acting as a central area for information, this umbrella site will also point to two additional web sites.

First will be a site dedicated to the Interstate Consortium of representatives from the various state task forces. This site will provide:

- An Interstate Consortium mailing list (list serve), which will allow Consortium members to easily send messages to other members. This will allow members to contact each other as well as serve as a forum for on-line discussions.
- On-line moderated discussion forums. Individual forums can be created for various topics and can be either public or private in nature. Forums will be moderated to ensure that discussions focus on pertinent topics and issues.
- An on-line database of PT&C activities in the various states. The database can be structured so that parts are viewable by the public and other parts are viewable only by designated users. Designated state representatives would be able to update and modify information in the database via on-line web-based forms.
- Web pages presenting information about Consortium activities as well as other PT&C activities in the various states.

Second will be a site dedicated to the National Consortium of representatives from the various national organizations. This site will provide the same types of services and information as the Interstate Consortium site, only with a focus on the national organizations rather than on state efforts.

Both these sites, as well as the umbrella site, will be interconnected via hyperlinks and be searchable via a search engine, providing easy access by both the general public and those more closely involved in improving public trust and confidence. All three sites will be maintained on the National Center for State Courts' web server.

Conference participants may offer further ideas on the configuration of the network or on the necessary scope of the effort. In all likelihood, the initial configuration will be fairly simple and confined to the essentials of plan implementation. This does not preclude later growth.

Task 3: Develop Information Base of Activities to Build Public Trust and Confidence

The public trust mission of national organizations is to support state efforts. To carry out this mission effectively, national organizations require some rudimentary information on the state networks for public trust, the goals and priorities of individual states, and the best practices or models already identified in each state as worthy of documentation and replication. This information will provide a starting point for an information base on public trust and confidence.

State Organizations

The state courts, probably through the state administrative offices, will be asked to provide some very simple data for inclusion in an initial database of information. The initial database would include the information set forth below.

◆ **State Liaison Information**

Conference Team: names, titles, addresses and contact numbers

Public Trust and Confidence Liaison officer: name, title, addresses and contact numbers

Public trust and confidence taskforce/ commission: organization name, names, titles, addresses and contact number of members, name of chairperson.

If no active task force/commission exists, any plans to create or activate such an entity.

◆ **Planning**

Use of strategic planning to determine goals and priorities of the courts.

Recent (last 5 years) Futures Commission Report.

Whether explicit goals and priorities for the courts have been established; if not, whether they are anticipated.

If set of priorities for improvement exists, list of the state priorities.

◆ **Model programs/ best practices**

For any programs or practices that have been successful in building public trust and confidence, provide information on:

Program title

Program Scope (local, regional, state)

Summary Program description

Contact person: name, title, address, contact numbers

National Organizations

The implementation of the NAP requires that national organizations undertake actions supportive of state efforts to build public trust and confidence. The PT&C Conference provided a plethora of such actions that are described in Part I of this draft,

but they are stated, for the most part, in general terms that require translation into more concrete form.

Over the next year national organizations will be asked to describe the actions they plan to take in support of public confidence initiatives at the state and local level. These actions need to be categorized in three ways:

Status: Actions will be in various stages of implementation. Actions may be proposed, perhaps awaiting funding; awaiting startup but definite; in process as a new program; a continuation of an existing program, or a continuation of an existing program with modifications. The “status” category of planned programs permits organizations to see how their actions relate to actions of other organizations and to identify areas of potential cooperation or coordination. The identification of proposed programs also provides a basis for joint funding strategies.

Relationship of action to national roles considered by the conference: Ten national roles were considered by conference participants. National actions can be categorized by the national role to which they primarily pertain and by the national role or roles to which they secondarily pertain.

Type of action: The actions that were proposed at the PT&C Conference fell primarily into six categories: advocacy/leadership; development of new product; dissemination of proven programs; serving as information clearinghouse; creating organizational networks; and providing resource assistance. Organizations may also take internal steps to organize some mechanism for dealing with public trust issues.

In addition, national organizations will need to provide a **description** of the national action. Based on the list of possible national actions generated at the Conference, there are some very concrete actions that could be undertaken. For illustrative purposes, eleven such actions are listed here.

- Provide coordinated policy and leadership to bring about implementation of plans to reduce race and ethnic bias in the courts, building upon the previous work of commissions on racial and ethnic bias.
- Undertake a national court-community collaboration technical assistance project to assist courts that are attempting this type of outreach and involvement.
- Undertake a public relations campaign coordinated by state court public information officers and organizational directors of communications “to put a human face” on the work of state judiciaries.
- Examine best practices in re-engineering civil court processes and simplifying civil procedures (including ADR) in order to reduce costs to litigants and increase access by litigants without lawyers.

- Identify best practices in the use of technology to enhance the dissemination of court information to potential litigants.
- Undertake projects to explore ways to reduce the negative consequences of partisan judicial elections and campaign finance practices in judicial elections.
- Initiate a project to identify and disseminate best practices in judicial performance evaluation processes.
- Based on a survey of programs of improved public service in courts, develop standards of public service as an elaboration of the *Trial Court Performance Standards*.
- Develop amended rules of judicial behavior that permit and encourage a community outreach role for judges.
- Create a national clearinghouse for information on educational programs to build public trust and confidence.
- Conduct meetings and conferences between judicial leaders and law school deans and university presidents on the effect of legal education and law school admission policies on public trust and confidence in the justice system

The above action descriptions are only summary in form. A fuller description would be requested for the National Consortium database. These actions, arrayed together in the context of the NAP, will provide a detailed overview of the steps being taken at a national level to assist the state courts. They will show the areas of concentration and the gaps in support. They will help national organizations do their planning and programming and will provide help to states in identifying where support is available. This information will be accessible through the Electronic Information Network described earlier in this Implementation Plan.

Task 4: Develop Resource Plan

Development and maintenance of the Implementation Plan will require additional resources, most likely in the form of foundation or government grants, and offers of staff resources by state and national organizations. The Plan should include a process through which volunteer staff resources are recruited from the various state and national organizations, and for effectively coordinating and utilizing such resources. The Plan should also describe a process for identifying and evaluating potential public and private funding sources to sustain the implementation infrastructure, electronic information network, and information base described above, as well as the implementing projects, actions, and activities of the state and national organizations.

ATTACHMENT A

National Conference on Public Trust and Confidence in the Justice System PLANNING COMMITTEE

John J. Curtin, Jr., Co-Chair, Planning Committee
Chair, ABA Coalition for Justice
Steering Committee member

The Honorable Thomas Zlaket, Co-Chair, Planning Committee
Chief Justice, Supreme Court of Arizona
Steering Committee member

Pat Brady, League of Women Voters of the United States
Steering Committee member

Harriet E. Miers, American Bar Association
Steering Committee Member

Stephan W. Stover, Conference of State Court Administrators
Steering Committee member

§ § §

The Honorable Frederic Rodgers, American Bar Association
Chair, National Action Plan Subcommittee

The Honorable Paul Beighle, American Judges Association
National Action Plan Subcommittee

Suzanne James, National Association for Court Management
National Action Plan Subcommittee

Richard L. Saks, National Association of State Judicial Educators
National Action Plan Subcommittee

Robert Tobin, National Center for State Courts
Staff, National Action Plan Subcommittee

§ § §

Philip S. Anderson, American Bar Association

Frank Broccolina, National Association for Court Management

Pamila Brown, American Bar Association

Gilbert R. Campbell, Jr., National Association of Bar Executives

Ernest Cordero, Jr., National Hispanic Bar Association

Thomas B. Darr, Public Information Office, Pennsylvania Courts

Zelda DeBoyes, National Association for Court Management

Hod Greeley, American Bar Association

Randy K. Jones, National Bar Association

W. Seaborn Jones, National Conference of Bar Presidents

Marcia Koslov, American Association of Law Libraries

John MacDonald, Public Information Office, Arizona Supreme Court

Beverly McQueary Smith, National Bar Association

Ira Pilchen, American Judicature Society

Sandra Ratcliff Daffron, American Judicature Society

The Honorable Mary Schroeder, National Association of Women Judges

Shirley Strickland-Saffold, American Judges Association

Roger K. Warren, National Center for State Courts

§ § §

Cheryl Reynolds, Project Monitor, State Justice Institute

Dick Van Duizend, Representative, State Justice Institute

ATTACHMENT B

National Conference on Public Trust and Confidence in the Justice System National Organization Representatives Attending Post-Conference Meeting

Margaret Axtmann
American Association of Law Libraries

The Honorable Paul Beighle
American Judges Association

David F. Bienvenu
American Bar Association
Ad Hoc Committee on State Justice Initiatives

Luke Bierman
American Bar Association
President's Office

The Honorable David A. Brock
Conference of Chief Justices

Pat Brady
League of Women Voters of the United States

Frank Broccolina
National Association for Court Management

Pamila Brown
American Bar Association

Gilbert R. Campbell, Jr.
National Association of Bar Executives

Ernest Cordero, Jr.
National Hispanic Bar Association

John J. Curtin, Jr.
American Bar Association
Coalition for Justice

Elizabeth Dahl
Citizens for Independent Courts

Thomas B. Darr
Public Information Office, Pennsylvania Courts

Zelda M. DeBoyes
National Association for Court Management

The Honorable Nikki T. DeShazo
National College of Probate Judges

The Honorable Gerald T. Elliot
American Judges Association

The Honorable Joseph P. Farina
National Conference of Metropolitan Courts

Hod Greeley
American Bar Association
Ad Hoc Committee on State Justice Initiatives

Samuel Harahan
Council for Court Excellence

James S. Heller
American Association of Law Libraries

Suzanne James
National Association for Court Management

W. Seaborn Jones
National Conference of Bar Presidents

Marcia Koslov
American Association of Law Libraries

Joseph A. Lane
National Conference of Appellate Court Clerks

The Honorable Percy R. Luney
National Judicial College

John MacDonald
Arizona Supreme Court

Franny M. Maguire
National Association of State Judicial Educators

Barry Mahoney
Justice Management Institute

Beverly McQueary Smith
National Bar Association

Harriet E. Miers
American Bar Association

Ira Pilchen
American Bar Association

The Honorable Robert Pirraglia
Rhode Island State Team

Sally Rankin
Public Information Officers Conference

Sandra Ratcliff Daffron
American Judicature Society

The Honorable Frederic Rodgers
American Bar Association
Judicial Division

The Honorable Gerald E. Rouse
National Council of Juvenile and Family Court Judges

Richard L. Saks
National Association of State Judicial Educators

Edward J. Schoenbaum
American Bar Association
National Conference of Administrative Law Judges

The Honorable Mary Murphy Schroeder
National Association of Women Judges

Stephan W. Stover
Conference of State Court Administrators

John J. Sweeney
American Bar Association
Office of State Justice Initiatives

The Honorable Jeffrey Tauber
National Association of Drug Court Professionals

Karen Thorson
National Association for State Judicial Educators

Robert Tobin
National Center for State Courts

William Vickrey
Conference of State Court Administrators

Roger K. Warren
National Center for State Courts

William E. Weber
National Court Reporters Association

The Honorable Thomas Zlaket
Supreme Court of Arizona

ATTACHMENT C

Barriers to Building Public Trust and Confidence in the Justice System

- Lack of public funding
- Lack of listening and interaction...denial
- Insufficient public accessibility to the proceedings – lack of innovation (internet)
- Not sufficiently collaborative or facilitative (we are trained to be adversaries, winners)
- Failure to develop non-judicial and judicial alternative dispute mechanisms
- Non-democratic judiciary
- Lack of will to do anything other than what we are doing
- Failure to develop non-judicial and judicial alternative dispute mechanisms
- Non-democratic judiciary
- Lack of will to do anything other than what we are doing
- Failure to make leadership role in public trust and confidence part of the judicial job description...judges are leaders of the leaders
- Lack of data on defining the problems and identifying what works in building trust and confidence
- Failure to educate the public on the importance and role/procedures of the judiciary
- Failure to educate profession regarding the need to reform themselves
- Lack of quality control in the lower courts
- Failure to aggressively deal with racial and ethnic bias
- Unreasonable expectations of judges
- Tension between fairness values and efficiency
- Failure of bar to get own house in order and to stand up against legislature for encroachment into judiciary functions
- Failure to adopt change
- Lack of diversity and self-discipline in the legal profession
- Failure of us to understand public's lack of trust which is inherent in our form of government

- Lack of understanding of how tribal judiciaries relate to state judiciaries
- Lack of public understanding of legal language
- Media misinformation
- Citizen dissatisfaction with government in general